

1. **Is the Program operator complying with Federal and State procurement standards that include the general standards in 7 CFR Parts 3016 and 3019, as applicable?**
 - a. Compliant code of conduct; and
 - b. Written procurement procedure or a written procurement plan.
2. **Does the written procurement procedure or procurement plan include the following:**
 - a. Contract management procedures set forth procurement process that ensures compliance by vendors, cooperatives, third-party buying agents, food service management companies, and/or other third-party entities?
 - b. Contract management procedures identify who will be responsible for procurement process and who will be responsible for ensuring compliance.
3. **Is the Program operator using the procurement methods in 7 CFR Parts 3016 and 3019, as applicable, and identified below when awarding contracts?**
 - a. Informal procurement method: for purchases valued *at or below* \$20,000.00, or a more restrictive state or local threshold:
 - i. Price or rate quotations shall be obtained from an adequate number of qualified sources.
 - b. Formal purchase procedures: valued *above* \$20,000.00, or more a more restrictive state or local threshold:
 - i. Invitation for Bid: bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.
 1. The following conditions should be present:
 - a. A complete, adequate, and realistic specification or purchase description is available;
 - b. Two or more responsible bidders are willing and able to compete effectively and for the business; and
 - c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 2. The following requirements apply:
 - a. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers,

providing them sufficient time prior to the date set for opening the bids;

- b. If weighed criteria is used as part of the solicitation, a weighted evaluation sheet is provided to each bidder in the initial solicitation document materials; price and other factors are considered with price receiving the highest weight;
 - c. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - d. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - e. Any or all bids may be rejected if there is a sound documented reason.
- ii. Request for Proposal: normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.
- 1. The following requirements apply:
 - a. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
 - b. Proposals will be solicited from an adequate number of qualified sources;
 - c. Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees; and
 - d. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered, but with the lowest cost/price as the primary factor.

- c. Noncompetitive negotiation: determine if any contracts were awarded through solicitation from only one source due to:
 - i. Only a single source is available;
 - ii. Public exigency or emergency;
 - iii. Express authorization from the State agency/FNS in response to a written request from the Program operator; or
 - iv. After solicitation of a number of sources, competition is determined inadequate.

4. Does the Program operator clearly identify scope of need, evaluation factors, contract type, contract duration, and other provisions, as needed when awarding contracts?

State agencies should assess compliance in this area by reviewing documentation of the procurement process: solicitations, bids/offers, evaluation and award procedures, and contract performance management procedures. State agencies should review procurement methods used to award vendor contracts, i.e., sealed bids, competitive proposals, or noncompetitive proposals, as applicable. Vendor contracts can vary widely: distributors of purchased food and supplies, technology services, equipment maintenance, processors of USDA donated foods, food service management company (FSMC) contracts, etc.

5. Is the Program operator including all required contract provisions in the initial solicitation and final contract awarded:

- a. Bond requirements in 7 CFR Part 3016.36(h) and 7 CFR 3019.48(c), as applicable?
- b. Contract provisions required by 7 CFR Parts 3016.36(i), as applicable?
 - i. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
 - ii. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
 - iii. Notice of awarding agency requirements and regulations pertaining to reporting.
 - iv. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
 - v. Awarding agency requirements and regulations pertaining to copyrights and rights in data.

- vi. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
 - vii. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
 - viii. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
 - ix. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- c. Procurement standards of Program regulations, as applicable? These include:

Programs	Buy American	Cost-reimbursable Contract Provisions	Geographic Preference
NSLP and SBP	7 CFR Parts 210.21(d) and 220.16(d)	7 CFR Parts 210.16, 210.21(f), 220.16(e), and 250.53	7 CFR Part 210.21(g) and 220.16(f)
SMP	-	7 CFR Part 215.14a(d)	7 CFR Part 215.14a(e)

6. Does the Program operator include unallowable and/or un-allocable costs in their solicitation/contract? This includes:

- a. overly responsive and value-added items;
- b. unallowable fees or fees that have not been properly procured.